



February 26, 2003

HOUSE BILL No. 1562

DIGEST OF HB 1562 (Updated February 25, 2003 11:35 AM - DI 105)

Citations Affected: IC 35-50; noncode.

Synopsis: Enhanced penalties for certain offenses. Provides that a person convicted of an offense involving the use of a firearm or destructive device may receive an additional term of imprisonment. Prohibits a person sentenced to an additional fixed term from: (1) receiving a suspended sentence; or (2) being assigned to a community transition program.

Effective: July 1, 2003.

Moses, Alderman

January 16, 2003, read first time and referred to Committee on Courts and Criminal Code.
February 25, 2003, amended, reported — Do Pass. Recommitted to Committee on Ways and Means.

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HB 1562—LS 7615/DI 105+



February 26, 2003

First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1562

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-50-2-11 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. (a) **As used in this**
3 **section, "destructive device" has the meaning set forth in**
4 **IC 35-47.5-2-4.**

5 (b) As used in this section, "firearm" has the meaning set forth in
6 IC 35-47-1-5.

7 (b) (c) As used in this section, "offense" means:

8 (1) a felony under IC 35-42 that resulted in death or serious bodily
9 injury;

10 (2) kidnapping; or

11 (3) criminal confinement as a Class B felony.

12 (c) (d) The state may seek, on a page separate from the rest of a
13 charging instrument, to have a person who allegedly committed an
14 offense sentenced to an additional fixed term of imprisonment if the
15 state can show beyond a reasonable doubt that the person knowingly or
16 intentionally used a firearm **or destructive device** in the commission
17 of the offense.

HB 1562—LS 7615/DI 105+



1 ~~(d)~~ (e) If the person was convicted of the underlying offense in
 2 a jury trial, the jury shall reconvene to determine if the person
 3 knowingly or intentionally used a firearm or destructive device in
 4 the commission of the offense. If the trial was to the court or the
 5 judgment was entered on a guilty plea, the court alone shall make
 6 the determination. However, the jury or the court does not need to
 7 reconvene to determine whether the person knowingly or
 8 intentionally used a firearm or destructive device if the use of a
 9 firearm or destructive device was proven beyond a reasonable
 10 doubt as an element of the underlying offense.

11 (f) If after a sentencing hearing a court finds that the jury (in a case
 12 tried by a jury) or the court (in a case tried by a court or on a
 13 judgment entered on a guilty plea) determines beyond a reasonable
 14 doubt that a person who committed an offense used a firearm or
 15 destructive device in the commission of the offense, the court ~~may~~
 16 shall sentence the person to an additional fixed term of imprisonment
 17 of five (5) years as follows:

18 (1) Five (5) years if the person has no prior unrelated felony
 19 convictions.

20 (2) Ten (10) years if the person has one (1) prior unrelated
 21 felony conviction.

22 (3) Twenty (20) years if the person has two (2) prior unrelated
 23 felony convictions.

24 (4) Life imprisonment without parole if the person has three
 25 (3) prior unrelated felony convictions.

26 (g) A person accumulates prior unrelated felony convictions in
 27 the following manner:

28 (1) The third prior unrelated felony conviction is committed
 29 after sentencing for the second prior unrelated felony
 30 conviction.

31 (2) The second prior unrelated felony conviction is committed
 32 after sentencing for the first prior unrelated felony conviction.

33 (h) A court may not suspend an additional fixed term under
 34 subsection (f)(1) or (f)(2).

35 (i) Notwithstanding IC 11-10-11.5, a person sentenced to an
 36 additional fixed term under subsection (f)(1) or (f)(2) is not eligible
 37 for assignment to a community transition program.

38 SECTION 2. [EFFECTIVE JULY 1, 2003] IC 35-50-2-11, as
 39 amended by this act, applies to offenses committed after June 30,
 40 2003.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1562, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 6, after "determination." insert "**However, the jury or the court does not need to reconvene to determine whether the person knowingly or intentionally used a firearm or destructive device if the use of a firearm or destructive device was proven beyond a reasonable doubt as an element of the underlying offense.**".

Page 2, between lines 13 and 14, begin a new line block indented and insert:

"(1) Five (5) years if the person has no prior unrelated felony convictions."

Page 2, line 14, delete "(1)" and insert "**(2)**".

Page 2, line 16, delete "(2)" and insert "**(3)**".

Page 2, line 18, delete "(3)" and insert "**(4)**".

Page 2, delete lines 29 through 31.

Page 2, line 32, delete "(j)" and insert "**(i)**".

and when so amended that said bill do pass.

(Reference is to HB 1562 as introduced.)

WEINZAPFEL, Chair

Committee Vote: yeas 9, nays 2.

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